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February 10, 2020

Hon. Paul A. Engelmayer, U.S.D.J.  
United States District Court  
Southern District of New York  
40 Foley Square, Room 2201  
New York, New York 10007  
[EngelmayerNYSDChambers@nysud.uscourts.gov](mailto:EngelmayerNYSDChambers@nysud.uscourts.gov)

**Re: *Volkswagen Group of America, Inc. v. Thomas J.K. Smith*  
19 Civ. 0502 (PAE) (KHP)**

Dear Judge Engelmayer:

The parties in the above-referenced action hereby submit a joint letter to the Court requesting a 120 day extension of the discovery period in this action pursuant to Your Honor's Individual Rule 1.E. All parties consent to the extension.

The extension is necessary in order to give the parties sufficient time to complete discovery. A number of issues have been raised, including during the parties' most recent meet and confer call on February 5, 2020. While some issues were resolved, a number of the issues will require further action including performing additional document searches and review. In addition, as Your Honor is aware, the parties are jointly seeking discovery from non-party U.S. Customs and Border Patrol. The above matters have delayed the noticed depositions in this action, as the parties need to assess the results of these requests in order to prepare for their respective examinations.

The current Scheduling Order, dated October 11, 2019 [Dkt. No. 28], marked the commencement of discovery, and ordered that fact discovery be completed by February 28, 2020 and that depositions be completed by January 31, 2020. The parties jointly request that fact discovery be extended 120 days and that the Court consolidate the dates for completion of fact discovery and depositions. The parties have also agreed that this will impact certain interim dates set forth in the current Scheduling Order. Pursuant to Rule 1.E of Your Honor's Individual Rules, the parties enclose a proposed Revised Scheduling Order for the Court's consideration, which reflects the requested changes.

No previous request for any extension has been made by any party. Plaintiff has previously requested, and Defendant consented to, an adjournment of the February 14, 2020 Settlement Conference before Judge Parker, which was granted and adjourned to the next available date of March 31, 2020.

The Honorable Paul A. Engelmayer  
February 10, 2020 – Page 2

Respectfully submitted,

/s/ Matthew J. Prutting  
Matthew J. Prutting, Esq.  
Kaplan Rice LLP

*Counsel for Plaintiff*

Respectfully submitted,

/s/ Richard A. Auerbach  
Richard A. Auerbach, Esq.  
McBreen & Kopko

*Counsel for Defendants*

*Enclosure: (1) Proposed Revised Scheduling Order*

cc: Howard Kaplan (via email)  
Regina Vakser (via email)